



March 7, 2024

Governor J.B. Pritzker
Office of the Governor
207 State House
Springfield, IL 62706

Dear Governor Pritzker:

An important piece of legislation – HB 779 – will soon arrive at your desk. This letter is intended to provide you with some information and insight that we hope you will find helpful in your deliberations regarding the best action to be taken with respect to this bill.

Background

A coalition of consumer advocates and responsible industry participants (the “Advocates”) have been battling the pawnbroker industry since May 2021 when the industry first attempted to pass an amendment carving themselves out of the Predatory Loan Prevention Act (PLPA). The PLPA, which you signed on March 23, 2021, was a major part of the Legislative Black Caucus’s Economic Access Pillar. The PLPA established a 36% APR (annual percentage rate) cap on consumer loans in Illinois. The law has already saved consumers in Illinois over \$600 million and, by prohibiting predatory payday loans, has eliminated the stark racial and economic disparities that existed with respect to those products.¹

In September 2021, Judge Raylene DeWitte Grischow granted the pawnbrokers an injunction, finding the PLPA ambiguous as it relates to pawnbrokers.² For the Advocates, this created a loophole, and, as a result of the injunction, pawnbrokers in Illinois have continued to charge as much as 243.3% APR for pawn loans. Research shows that tightening regulations on one segment of the market can cause the industry and its consumers to gravitate to the less regulated segment. After enacting a cap of 28% APR on payday loans, Ohio saw a 97% increase in pawn shops.³ Therefore, there is a high probability that some of the money saved by consumers on payday and auto title loans was spent on pawn loans.

¹ Spencer Cowan & Brent Adams, Woodstock Institute, [Illinois’s Predatory Loan Prevention Act: The Impacts of the State’s 36% Rate Cap - The PLPA is Working!](#) (Jan. 2024).

² *Illinois Pawnbrokers Association v. Illinois Dept. of Financial & Professional Regulation*, Case No. 2021-CH-43, [Order Granting Plaintiffs’ Motion for Preliminary Injunction](#) (Sept. 2021).

³ PYMNTS, [“Payday Lending Laws Drive Traffic to Pawn Shops”](#) (Oct. 4, 2019).

The Advocates' campaign to close the "Pawnbroker Loophole" ramped up during the Veto Session of 2022 when then-State Senator Jacqueline Y. Collins introduced a bill ([HB3968 SFA1](#)) to close the loophole. That bill caused the pawn industry to unleash an army of lobbyists. Sen. J. Collins's bill was never called, and in 2023, the Illinois Department of Financial & Professional Regulation (IDFPR) convened negotiations with the industry. HB 779 Senate Amendment #1, which was introduced on May 17, 2023, was the result of that process. The Advocates expressed opposition to the bill, and Leader Elgie Sims agreed to hold the bill.

Beginning on August 28, 2023, IDFPR convened negotiations with the industry and the Advocates. Leader Sims later became the convener, and HB 779 Senate Amendment #2 was the result of that process. The Advocates chose, for both practical and policy reasons, to take "No Position."

The Advocates' Position

From a practical standpoint, the Advocates felt that it was not realistic to hope for a better bill and that time spent battling the pawnbrokers could instead be spent on a variety of other policy objectives that had a clearer path to victory.

From a policy standpoint, the bill is a mixed bag:

The Positive Side

1. No Title Loans: The Bill prohibits pawnbrokers from making auto title loans. In other states, pawnbrokers use the state pawnbroker statute to evade restrictions on auto title loans. In those states, a consumer is permitted to "pawn" the title to their car. ⁴

2. Lower Interest Rates/Finance Charges: Under the Pawnbroker Regulation Act (PRA) now, a lender may charge 20% per month regardless of the loan term or the loan amount. As an annual percentage rate (APR), this equates to 243.3% on a 30-day loan, which far exceeds the PLPA cap of 36% APR. The Bill, while carving pawn loans out of the PLPA, would lower monthly rates on larger loan amounts by creating a four-tiered rate structure. The Bill would cut the rate to one-sixth (16.7%) of the loan amount for loans \$500-\$1500, one-eighth (12.5%) of the loan amount for loans \$1501-\$5000, and one-twentieth (5%) of the loan amount for loans over \$5000.⁵

3. Improved Transparency: The Bill would revamp data collection and reporting. The last time IDFPR reported [data about the pawn industry was 2017](#), and both the industry and IDFPR have expressed doubts about the validity of the data. The Bill would require IDFPR to report aggregate data about the pawn industry on a yearly basis based on data submitted by

⁴ Georgia's battle over this issue has garnered headlines. See Pro Publica, [How Title Lenders Trap Poor Americans in Debt With Triple-Digit Interest Rates](#) (Nov. 14, 2022).

⁵ The corresponding APR caps for the new tiers are 200.4% APR for loans \$500-\$1500, 150% APR for loans \$1501-\$5000, and 60% APR for loans over \$5000.

licensees. The Bill also has provisions permitting the Department to collect *loan-level* data.⁶ The hope is that this data will enable stakeholders and policymakers to revisit the issue of interest rates, finance charges, and fees in or around 2026, equipped with more information. We are grateful for the leadership of Leader Sims who has expressed a willingness to lead the process of revisiting the rates in future years.

The Negative Side

1. Triple-Digit Interest Rates: Section 15-10(c) re-codifies the current cap of 243.3% APR on loans less than \$500. During negotiations, IDFPR drafted language that would have inserted a sunset into the rate provisions. The sunset would have created the incentive necessary for the industry to return to the negotiating table. The Advocates supported the IDFPR language, agreeing that the sunset was necessary to create the incentive necessary for the industry to return to the negotiating table. The industry rejected the IDFPR language.

2. Frivolous “Data”: In HB 779, IDFPR is required to publicly report aggregate data regarding eighteen data fields on an annual basis. Some of the data fields are critical while others are simply industry talking points. For example, data field #15 is the total number of defaulted transactions sent to a collection agency. That data field is always zero because, in the event of default, the pawnbroker simply keeps the collateral and never involves a collection agency. The three frivolous data fields, which are always zero, are

Section 10-60

(15) total number of loans reported to credit bureaus

(16) total number of loans reported to a collection agency

(17) total number of loans resulting in wage garnishment or legal action

3. Optional Data Collection: Section 10-60(b) permits, but does not require, IDFPR to collect loan level data for small dollar loans, including pawn loans. We have received assurances that IDFPR does intend to collect loan level data for the pawn industry as permitted by the Bill, which we appreciate. However, we cannot predict what future administrations may do, and having consistent data over time is important for a robust analysis. Therefore, the data collection should be mandatory, not permissive.

Conclusion

Governor, you have been at the forefront of reforms that have transformed consumer financial protection in Illinois. The PLPA is the gold standard for the nation and has inspired other states. New Mexico enacted a rate cap modeled after the PLPA on January 1, 2023. We hope the PLPA's success will boost the effort to establish a national interest rate cap.

⁶ “Loan level” means collecting data on each loan made. Illinois already has effective loan-level data collection infrastructure in place: a statewide database that has been in place since 2005 that collects data on every payday loan, auto title loan, and installment loan made by a nondepository institution in Illinois. See IDFPR, [Illinois Trends Report](#) (12/20/22).

Under your leadership, the impossible became possible. For this, we are eternally grateful and look forward to partnering with you on more ground-breaking reforms that make concrete improvements in the quality of life for Illinois families.

Sincerely,

AARP Illinois
American Fintech Council
Capital Good Fund
Catholic Conference of Illinois
Chicago Urban League
Heartland Alliance
Legal Action Chicago
Paul E. Kantwill, Colonel, U.S. Army (Ret.)
Trellus
United Way of Illinois
Woodstock Institute